Regulations 1700
Section 100

Complete Rule Making File

OAL Approval with Approved Text Regulation 1700

Index

Other Documents Relied upon

State of California
Office of Administrative Law

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:
Amend sections: 1602.5, 1700
Repeal sections:

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT
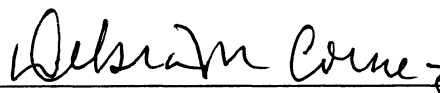
California Code of Regulations, Title 1,
Section 100

OAL File No. 2010-0406-02 N

Sections 1602.5 and 1700 of title 18 contain examples for calculating applicable tax using a 6% tax rate. This change without regulatory effect replaces the out-dated 6% tax rate, which currently does not apply anywhere in California, with an 8.25% tax rate in the examples for calculating applicable tax.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 5/13/2010

Debra M. Cornez
Assistant Chief Counsel

For: SUSAN LAPSLEY
Director

Original: Ramon Hirsig
   Copy: Richard Bennion

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826

SUSAN LAPSLEY
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: 5/19/2010
RE: Return of Approved Rulemaking Materials
             OAL File No. 2010-0406-02N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2010-0406-02N regarding Reporting Methods for Grocers).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). (Please Note: The 30th Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.)

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "....no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

STATE OF CALIFORNIA–OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION (See instructions on reverse)

STD. 400 (REV. 01-09)

NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-	2010-0406-02N	

For use by Office of Administrative Law (OAL) only

2010 APR -6 AM 8: 51

OFFICE OF
ADMINISTRATIVE LAW

NOTICE   REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY	AGENCY FILE NUMBER (If any)
State Board of Equalization	

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
☐ Notice re Proposed Regulatory Action ☐ Other			

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
Reporting Methods for Grocers	

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	1602.5, 1700
TITLE(S) 18	REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)

☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)

☐ Emergency (Gov. Code, §11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.

☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)

☐ Emergency Readopt (Gov. Code, §11346.1(h))

☐ File & Print

☐ Other (Specify) _____

☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State
☐ Effective on filing with Secretary of State
☒ $100 Changes Without Regulatory Effect
☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660)
☐ Fair Political Practices Commission
☐ State Fire Marshal

☐ Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Richard E. Bennion	(916) 445-2130	(916) 324-3984	rbennion@boe.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
	4/5/2010

TYPED NAME AND TITLE OF SIGNATORY
Diane G. Olson, Chief, Board Proceedings Division

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 13 2010

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

Regulation 1602.5. Reporting Methods for Grocers.

(a) Food Products Exemption-In General. . . . (unchanged).

(b) Reporting Methods. . . . (unchanged).

    (1) Purchase-Ratio Method. . . . (unchanged).

        (A) . . . (unchanged).

        (B) . . . (unchanged).

        (C) . . . (unchanged).

        (D) . . . (unchanged).

        (E) . . . (unchanged).

        (F) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

            3. . . . (unchanged).

            4. . . . (unchanged).

                A. . . . (unchanged).

                B. . . . (unchanged).

                C. . . . (unchanged).

        (G) Sales tax reimbursement collected in accordance with Regulation 1700 which is included in total sales is an allowable deduction. An example of the computation of the purchase-ratio method which provides for an adjustment for sales tax included follows:

1. Taxable grocery purchases... $40,000

2. Add sales tax adjustment (~~6~~8.25%* x Item 1)............................. ~~2,400~~3,300
3. Adjusted taxable grocery purchases (Item 1 + Item 2)................. 42,~~400~~43,300
4. Exempt food products purchases.. 130,000
5. Total grocery purchases including sales tax (Item 3 + Item 4)... ~~172,400~~173,300
6. Exempt food products ratio (Item 4 divided by Item 5).............. ~~75.41~~75.01%
7. Total sales including sales tax... 254,088
8. Nongrocery taxable sales including sales tax
(if such sales are not accurately segregated,
mark up nongrocery taxable cost of goods sold to
compute sales-add ~~6~~8.25%* sales tax to total)**............................ 31,500
9. Grocery sales including sales tax (Item 7 - Item 8)...................... 222,588
10. Exempt food products sales (Item 6 x Item 9)............................. ~~167,854~~166,963
11. Sales of taxable items including sales tax (Item 7 - Item 10)...... ~~86,234~~87,125
12. Less taxable items purchased with food stamps
(2% of total food stamps redeemed for period,
e.g., 2% x $100,000)... 2,000
13. Taxable Measure including sales tax (Item 11 - Item 12)........... ~~84,234~~85,125
14. Sales tax included (~~6/10~~8.25/108.25* x Item 13)....................... ~~4,768~~6,488
15. Measure of tax (Item 13 - Item 14)... ~~79,466~~78,637
16. Sales tax payable (~~6~~8.25%* x Item 15)..................................... ~~4,768~~6,488

   (2) Modified Purchase-Ratio Method. . . . (unchanged).

   (3) Retail Inventory Method and Markup Method. . . . (unchanged).

     (A) . . . (unchanged).

       1. . . . (unchanged).

       2. . . . (unchanged).

       3. . . . (unchanged).

       4. . . . (unchanged).

       5. . . . (unchanged).

       6. . . . (unchanged).

     (B) . . . (unchanged).

       1. . . . (unchanged).

       2. . . . (unchanged).

         A. . . . (unchanged).

B. . . . (unchanged).

    a. . . . (unchanged).

    b. . . . (unchanged).

    c. . . . (unchanged).

    d. . . . (unchanged).

C. . . . (unchanged).

D. . . . (unchanged).

E. . . . (unchanged).

F. . . . (unchanged).

(4) Electronic Scanning Systems. . . . (unchanged).

(c) Food Stamps. . . . (unchanged).

(d) Shrinkage. . . . (unchanged).

(1) . . . (unchanged).

(2) . . . (unchanged).

(e) List of Methods Not Exhaustive. . . . (unchanged).

(f) Audits. . . . (unchanged).

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* Use applicable tax rate -tax rate of 68.25% used for illustration purposes.

** . . . (unchanged).

[1] . . . (unchanged).

Note: Authority cited: Sections 7051 and 7051.5, Revenue and Taxation Code.
Reference: Sections 6359 and 6373, Revenue and Taxation Code.

Regulation 1700. Reimbursement for Sales Tax.

(a) Reimbursement for Sales Tax.

   (1) Addition of Sales Tax Reimbursement. . . . (unchanged).

   (2) Presumptions. . . . (unchanged).

      (A) . . . (unchanged).

      (B) . . . (unchanged).

      (C) . . . (unchanged).

         1. . . . (unchanged).

         2. . . . (unchanged).

   (3) Reimbursement Schedules. . . . (unchanged).

(b) Excess Tax Reimbursement.

   (1) Definition. . . . (unchanged).

   (2) Procedure upon Ascertainment of Excess Tax Reimbursement. . . . (unchanged).

   (3) Evidence Sufficient to Establish that Excess Amounts have been or will be Returned to Customer.

      (A) . . . (unchanged).

         1. . . . (unchanged).

         2. . . . (unchanged).

      (B) . . . (unchanged).

         1. . . . (unchanged).

         2. . . . (unchanged).

   (4) Offsets. . . . (unchanged).

   (5) Particular Applications. (Examples at ~~6~~8.25 percent tax rate.)

      (A) Discounts and trading stamps.

4

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $6~~8~~.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $6~~8~~.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $~~4.80~~6.60, i.e., 6~~8~~.25 percent of $80, and has retained excessive tax reimbursement of $~~1.20~~1.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $6~~8~~.25 on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $~~5.88~~8.08 (6~~8~~.25 percent of $98).

The retailer must follow one of the three following procedures:

      a. . . . (unchanged).

      b. . . . (unchanged).

      c. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(6) Rights of Customers. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6901.5, Revenue and Taxation Code; and Section 1656.1, Civil Code. Leases, see also regulation 1660; Meals, tips and other charges as tax-included amounts, see regulation 1603; "Free meals," charging reimbursement on, see regulation 1670; Trading stamps generally, see regulation 1671; Trade-ins generally, see regulation 1654.

CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 1602.5, *Reporting Methods for Grocers*
Regulation 1700, *Reimbursement for Sales Tax*

A. Factual Basis

Subdivision (b)(1)(G) of California Code of Regulations, title 18, section (Regulation) 1602.5, *Reporting Methods for Grocers*, includes an example showing how grocers can calculate the applicable sales and use tax using the purchase-ratio method. Subdivision (b)(5)(A) of Regulation 1700, *Reimbursement for Sales Tax*, contains two examples showing how retailers can mistakenly calculate and collect excess tax reimbursement in transactions involving discounts and trading stamps. However, the example in Regulation 1602.5 and the examples in Regulation 1700 use an out-dated 6 percent tax rate,[1] which does not currently apply anywhere in California. Therefore, the State Board of Equalization (Board) proposes to update all three examples so that they utilize an 8.25 percent tax rate[2] because California sales and use tax rates currently range from 8.25 percent to 10.75 percent, and 8.25 percent will continue to be the operative rate in some areas of California after the temporary 1 percent tax rate increase authorized by Revenue and Taxation Code sections 6051.7 and 6201.7 expires.[3]

The Board has determined that the changes to Regulation 1602.5 and 1700 are appropriate for processing under Rule 100 because they merely change the tax rates used in examples, not the actual tax rates that apply to specific transactions, and therefore do not have any regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes to Regulation 1602.5

Proposed changes to Regulation 1602.5:

Regulation 1602.5. Reporting Methods for Grocers.

(a) Food Products Exemption-In General. . . . (unchanged).

(b) Reporting Methods. . . . (unchanged).

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[1] The tax rate refers to the cumulative rates at which the state sales and use tax (Rev. & Tax Code, § 6001 et seq.), the Bradley-Burns Uniform Local Sales and Use Tax (Rev. & Tax. Code, § 7200 et seq.), and local Transactions and Use Tax are computed in a given jurisdiction, such as a city or county.
[2] For ease of reference, there is a chart available at http://www.boe.ca.gov/news/sp111500att.htm, which shows each component of the 8.25 percent rate.
[3] For ease of reference, the specific sales and use tax rates applicable in the various California cities and counties are available on the Board's Website at http://www.boe.ca.gov/sutax/pam71.htm.

(1) Purchase-Ratio Method. . . . (unchanged).

    (A) . . . (unchanged).

    (B) . . . (unchanged).

    (C) . . . (unchanged).

    (D) . . . (unchanged).

    (E) . . . (unchanged).

    (F) . . . (unchanged).

        1. . . . (unchanged).

        2. . . . (unchanged).

        3. . . . (unchanged).

        4. . . . (unchanged).

            A. . . . (unchanged).

            B. . . . (unchanged).

            C. . . . (unchanged).

(G) Sales tax reimbursement collected in accordance with Regulation 1700 which is included in total sales is an allowable deduction. An example of the computation of the purchase-ratio method which provides for an adjustment for sales tax included follows:

1. Taxable grocery purchases..	$40,000
2. Add sales tax adjustment (~~6~~8.25%* x Item 1)................................	~~2,400~~3,300
3. Adjusted taxable grocery purchases (Item 1 + Item 2)...................	~~42,400~~43,300
4. Exempt food products purchases......................................	130,000
5. Total grocery purchases including sales tax (Item 3 + Item 4).......	~~172,400~~173,300
6. Exempt food products ratio (Item 4 divided by Item 5)..................	~~75.41~~75.01%
7. Total sales including sales tax......................................	254,088
8. Nongrocery taxable sales including sales tax (if such sales are not accurately segregated, mark up nongrocery taxable cost of goods sold to compute sales-add ~~6~~8.25%* sales tax to total)**..............................	31,500
9. Grocery sales including sales tax (Item 7 - Item 8)........................	222,588
10. Exempt food products sales (Item 6 x Item 9)...............................	~~167,854~~166,963
11. Sales of taxable items including sales tax (Item 7 - Item 10).........	~~86,234~~87,125

12. Less taxable items purchased with food stamps
(2% of total food stamps redeemed for period,
e.g., 2% x $100,000).. 2,000
13. Taxable Measure including sales tax (Item 11 - Item 12).............. ~~84,234~~85,125
14. Sales tax included (~~6/106~~8.25/108.25* x Item 13)......................... ~~4,768~~6,488
15. Measure of tax (Item 13 - Item 14)...................................... ~~79,466~~78,637
16. Sales tax payable (~~6~~8.25%* x Item 15)............................... ~~4,768~~6,488

    (2) Modified Purchase-Ratio Method. . . . (unchanged).

    (3) Retail Inventory Method and Markup Method. . . . (unchanged).

        (A) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

            3. . . . (unchanged).

            4. . . . (unchanged).

            5. . . . (unchanged).

            6. . . . (unchanged).

        (B) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

                A. . . . (unchanged).

                B. . . . (unchanged).

                    a. . . . (unchanged).

                    b. . . . (unchanged).

                    c. . . . (unchanged).

                    d. . . . (unchanged).

                C. . . . (unchanged).

                D. . . . (unchanged).

E. . . . (unchanged).

F. . . . (unchanged).

(4) Electronic Scanning Systems. . . . (unchanged).

(c) Food Stamps. . . . (unchanged).

(d) Shrinkage. . . . (unchanged).

    (1) . . . (unchanged).

    (2) . . . (unchanged).

(e) List of Methods Not Exhaustive. . . . (unchanged).

(f) Audits. . . . (unchanged).

----

* Use applicable tax rate -tax rate of 6̶8̶.25% used for illustration purposes.

** . . . (unchanged).

[1] . . . (unchanged).

Note: Authority cited: Sections 7051 and 7051.5, Revenue and Taxation Code. Reference: Sections 6359 and 6373, Revenue and Taxation Code.

C. Proposed Changes to Regulation 1700

Proposed changes to Regulation 1700

Regulation 1700. Reimbursement for Sales Tax.

(a) Reimbursement for Sales Tax.

    (1) Addition of Sales Tax Reimbursement. . . . (unchanged).

    (2) Presumptions. . . . (unchanged).

        (A) . . . (unchanged).

        (B) . . . (unchanged).

        (C) . . . (unchanged).

1. . . . (unchanged).

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(3) Reimbursement Schedules. . . . (unchanged).

(b) Excess Tax Reimbursement.

(1) Definition. . . . (unchanged).

(2) Procedure upon Ascertainment of Excess Tax Reimbursement. . . . (unchanged).

(3) Evidence Sufficient to Establish that Excess Amounts have been or will be Returned to Customer.

(A) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(B) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(4) Offsets. . . . (unchanged).

(5) Particular Applications. (Examples at ~~6~~8.25 percent tax rate.)

(A) Discounts and trading stamps.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $~~6~~8.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $~~6~~8.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $~~4.80~~6.60, i.e., ~~6~~8.25 percent of $80, and has retained excessive tax reimbursement of $~~1.20~~1.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the

Page 5 of 6

goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $6~~8.25~~ on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $~~5.888~~.08 (6~~8.25~~ percent of $98).

The retailer must follow one of the three following procedures:

      a. . . . (unchanged).

      b. . . . (unchanged).

      c. . . . (unchanged).

   (B) . . . (unchanged).

   (C) . . . (unchanged).

   (D) . . . (unchanged).

  (6) Rights of Customers. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6901.5, Revenue and Taxation Code; and Section 1656.1, Civil Code. Leases, see also regulation 1660; Meals, tips and other charges as tax-included amounts, see regulation 1603; "Free meals," charging reimbursement on, see regulation 1670; Trading stamps generally, see regulation 1671; Trade-ins generally, see regulation 1654.

CHANGES WITHOUT REGULATORY EFFECT UNDER
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Regulation 1602.5, *Reporting Methods for Grocers*
Regulation 1700, *Reimbursement for Sales Tax*

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The Board has determined that the changes to Regulation 1602.5 and 1700 are appropriate for processing under Rule 100 because they merely change the tax rates used in examples, not the actual tax rates that apply to specific transactions, and therefore do not have any regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes to Regulation 1602.5

Proposed changes to Regulation 1602.5:

Regulation 1602.5. Reporting Methods for Grocers.

(a) Food Products Exemption-In General. . . . (unchanged).

(b) Reporting Methods. . . . (unchanged).

---

[1] The tax rate refers to the cumulative rates at which the state sales and use tax (Rev. & Tax Code, § 6001 et seq.), the Bradley-Burns Uniform Local Sales and Use Tax (Rev. & Tax. Code, § 7200 et seq.), and local Transactions and Use Tax are computed in a given jurisdiction, such as a city or county.

[2] For ease of reference, there is a chart available at http://www.boe.ca.gov/news/sp111500att.htm, which shows each component of the 8.25 percent rate.

[3] For ease of reference, the specific sales and use tax rates applicable in the various California cities and counties are available on the Board's Website at http://www.boe.ca.gov/sutax/pam71.htm.

(1) Purchase-Ratio Method. . . . (unchanged).

    (A) . . . (unchanged).

    (B) . . . (unchanged).

    (C) . . . (unchanged).

    (D) . . . (unchanged).

    (E) . . . (unchanged).

    (F) . . . (unchanged).

        1. . . . (unchanged).

        2. . . . (unchanged).

        3. . . . (unchanged).

        4. . . . (unchanged).

            A. . . . (unchanged).

            B. . . . (unchanged).

            C. . . . (unchanged).

(G) Sales tax reimbursement collected in accordance with Regulation 1700 which is included in total sales is an allowable deduction. An example of the computation of the purchase-ratio method which provides for an adjustment for sales tax included follows:

1. Taxable grocery purchases..	$40,000
2. Add sales tax adjustment (6̶8̶.25%* x Item 1)...............................	2̶,̶4̶0̶0̶3,300
3. Adjusted taxable grocery purchases (Item 1 + Item 2)...................	4̶2̶,̶4̶0̶0̶43,300
4. Exempt food products purchases..	130,000
5. Total grocery purchases including sales tax (Item 3 + Item 4).......	1̶7̶2̶,̶4̶0̶0̶173,300
6. Exempt food products ratio (Item 4 divided by Item 5)..................	7̶5̶.̶4̶1̶75.01%
7. Total sales including sales tax..	254,088
8. Nongrocery taxable sales including sales tax (if such sales are not accurately segregated, mark up nongrocery taxable cost of goods sold to compute sales-add 6̶8̶.25%* sales tax to total)**.............................	31,500
9. Grocery sales including sales tax (Item 7 - Item 8)........................	222,588
10. Exempt food products sales (Item 6 x Item 9).............................	1̶6̶7̶,̶8̶5̶4̶166,963
11. Sales of taxable items including sales tax (Item 7 - Item 10).........	8̶6̶,̶2̶3̶4̶87,125

12. Less taxable items purchased with food stamps
(2% of total food stamps redeemed for period,
e.g., 2% x $100,000).. 2,000
13. Taxable Measure including sales tax (Item 11 - Item 12).............. ~~84,234~~85,125
14. Sales tax included (~~6/106~~8.25/108.25* x Item 13)........................ ~~4,768~~6,488
15. Measure of tax (Item 13 - Item 14).................................... ~~79,466~~78,637
16. Sales tax payable (~~6~~8.25%* x Item 15)................................ ~~4,768~~6,488

(2) Modified Purchase-Ratio Method. . . . (unchanged).

(3) Retail Inventory Method and Markup Method. . . . (unchanged).

   (A) . . . (unchanged).

      1. . . . (unchanged).

      2. . . . (unchanged).

      3. . . . (unchanged).

      4. . . . (unchanged).

      5. . . . (unchanged).

      6. . . . (unchanged).

   (B) . . . (unchanged).

      1. . . . (unchanged).

      2. . . . (unchanged).

         A. . . . (unchanged).

         B. . . . (unchanged).

            a. . . . (unchanged).

            b. . . . (unchanged).

            c. . . . (unchanged).

            d. . . . (unchanged).

         C. . . . (unchanged).

         D. . . . (unchanged).

E. . . . (unchanged).

F. . . . (unchanged).

(4) Electronic Scanning Systems. . . . (unchanged).

(c) Food Stamps. . . . (unchanged).

(d) Shrinkage. . . . (unchanged).

(1) . . . (unchanged).

(2) . . . (unchanged).

(e) List of Methods Not Exhaustive. . . . (unchanged).

(f) Audits. . . . (unchanged).

----

* Use applicable tax rate -tax rate of 6~~8.25~~% used for illustration purposes.

** . . . (unchanged).

[1] . . . (unchanged).

Note: Authority cited: Sections 7051 and 7051.5, Revenue and Taxation Code. Reference: Sections 6359 and 6373, Revenue and Taxation Code.

C. Proposed Changes to Regulation 1700

Proposed changes to Regulation 1700

Regulation 1700. Reimbursement for Sales Tax.

(a) Reimbursement for Sales Tax.

(1) Addition of Sales Tax Reimbursement. . . . (unchanged).

(2) Presumptions. . . . (unchanged).

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(3) Reimbursement Schedules. . . . (unchanged).

(b) Excess Tax Reimbursement.

(1) Definition. . . . (unchanged).

(2) Procedure upon Ascertainment of Excess Tax Reimbursement. . . . (unchanged).

(3) Evidence Sufficient to Establish that Excess Amounts have been or will be Returned to Customer. . . . (unchanged).

(A) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(B) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(4) Offsets. . . . (unchanged).

(5) Particular Applications. (Examples at ~~6~~8.25 percent tax rate.)

(A) Discounts and trading stamps.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $~~6~~8.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $~~6~~8.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $~~4.80~~6.60, i.e., ~~6~~8.25 percent of $80, and has retained excessive tax reimbursement of $~~1.20~~1.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the

goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $6~~8~~.25 on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $~~5.88~~8.08 (6~~8~~.25 percent of $98).

The retailer must follow one of the three following procedures:

      a. . . . (unchanged).

      b. . . . (unchanged).

      c. . . . (unchanged).

   (B) . . . (unchanged).

   (C) . . . (unchanged).

   (D) . . . (unchanged).

  (6) Rights of Customers. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6901.5, Revenue and Taxation Code; and Section 1656.1, Civil Code. Leases, see also regulation 1660; Meals, tips and other charges as tax-included amounts, see regulation 1603; "Free meals," charging reimbursement on, see regulation 1670; Trading stamps generally, see regulation 1671; Trade-ins generally, see regulation 1654.

("OBD") systems on used 2010 and subsequent heavy duty engines, amends the OBD regulation that specifies the required capabilities of OBD systems installed in passenger cars, light duty trucks, and medium duty vehicles, and updates the regulation that specifies the emission standards pertinent to OBD systems and other requirements applicable to 2010 and subsequent heavy-duty engines.

Title 13
California Code of Regulations
ADOPT: 1971.5 AMEND: 1968.2, 1971.1
Filed 05/18/2010
Effective 06/17/2010
Agency Contact: Amy Whiting   (916) 322-6533

File# 2010-0407-01
BOARD OF EQUALIZATION
Innocent Spouse or Registered Domestic Partner Relief from Liability

The State Board of Equalization adopted sections 1004, 1032, 1124.1, 1249, 1336, 1422.1, 2251, 2303.1, 2433, 2571, 3022, 3302.1, 3502.1, 4106 and 4903 in title 18 of the California Code of Regulations to provide for relief for innocent spouses and registered domestic partners from liability under the Alcoholic Beverage Tax Law, Cigarette and Tobacco Products Tax Law, Diesel Fuel Tax Law, Emergency Telephone Users Surcharge Law, Energy Resources Surcharge Law, Fee Collection Procedures Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Motor Vehicle Fuel Tax Law, Oil Spill Response, Prevention, and Administration Fees Law, Private Railroad Car Tax Law, Timber Yield Tax Law, Underground Storage Tank Maintenance Law, or Fuel Tax Law.

Title 18
California Code of Regulations
ADOPT: 1004, 1032, 1124.1, 1249, 1336, 1422.1, 2251, 2303.1, 2433, 2571, 3022, 3302.1, 3502.1, 4106, 4903
Filed 05/18/2010
Effective 06/17/2010
Agency Contact:
    Richard Bennion   (916) 445-2130

File# 2010-0406-01
BOARD OF EQUALIZATION
Membership Fees

This change without regulatory effect deletes subdivision (c) of section 1584 which states "The provisions of this regulation are operative January 1, 1996" because all of the reporting periods that began prior to January 1, 1996, ended more than 14 years ago, the Board does not expect to issue any new notices of determina-

tion or receive any new claims for refund for those reporting periods because of statutory deadlines, and therefore, the reporting periods are closed for all material regulatory purposes.

Title 18
California Code of Regulations
AMEND: 1584
Filed 05/13/2010
Agency Contact:
    Richard Bennion   (916) 445-2130

File# 2010-0406-02
BOARD OF EQUALIZATION
Reporting Methods for Grocers

Sections 1602.5 and 1700 of title 18 contain examples for calculating applicable tax using a 6% tax rate. This change without regulatory effect replaces the outdated 6% tax rate, which currently does not apply anywhere in California, with an 8.25% tax rate in the examples for calculating applicable tax.

Title 18
California Code of Regulations
AMEND: 1602.5, 1700
Filed 05/13/2010
Agency Contact:
    Richard Bennion   (916) 445-2130

File# 2010-0415-07
BUREAU OF AUTOMOTIVE REPAIR
Motor Vehicle Inspection Program Definitions

This Section 100 change without regulatory effect amends the existing Motor Vehicle Inspection Program definitions regulation by rearranging the definitions into alphabetical order.

Title 16
California Code of Regulations
AMEND: 3340.1
Filed 05/19/2010
Agency Contact: Steven Hill   (916) 255-2135

File# 2010-0330-01
CALIFORNIA EMERGENCY MANAGEMENT AGENCY
Office of Emergency Services — Change of Agency Name and Corrections

This change without regulatory effect implements Assembly Bill 38, Chapter 372, of 2008. Assembly Bill 38 changed the name of the agency from the Office of Emergency Services (OES) to the California Emergency Management Agency (Cal EMA) and changed the title of the head of the agency from Director to Secretary. This change without regulatory effect also made corrective grammar, spelling, alphabetizing, cross-reference, Authority and Reference Citation, and punctua-

Regulation 1700
Section 100

Index

NONSUBSTANTIVE

For use by Secretary of State only

NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-	2010-0406-02N	

For use by Office of Administrative Law (OAL) only

2010 APR -6 AM 8: 40

OFFICE OF
ADMINISTRATIVE LAW

NOTICE		REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY	AGENCY FILE NUMBER (if any)
State Board of Equalization	

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
☐ Notice re Proposed Regulatory Action ☐ Other			

OAL USE ONLY

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
Reporting Methods for Grocers	

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	1602.5, 1700
TITLE(S) 18	REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)

☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)

☐ Emergency (Gov. Code, §11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.

☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)

☐ Emergency Readopt (Gov. Code, §11346.1(h))

☐ File & Print

☐ Other (Specify) _____

☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State   ☐ Effective on filing with Secretary of State   ☒ $100 Changes Without Regulatory Effect   ☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660)   ☐ Fair Political Practices Commission   ☐ State Fire Marshal

☐ Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Richard E. Bennion	(916) 445-2130	(916) 324-3984	rbennion@boe.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Diane G. Olson	4/5/2010

TYPED NAME AND TITLE OF SIGNATORY
Diane G. Olson, Chief, Board Proceedings Division

Text of Proposed Changes to

Title 18. Public Revenue

Regulation 1602.5. Reporting Methods for Grocers.

(a) Food Products Exemption-In General. . . . (unchanged).

(b) Reporting Methods. . . . (unchanged).

    (1) Purchase-Ratio Method. . . . (unchanged).

        (A) . . . (unchanged).

        (B) . . . (unchanged).

        (C) . . . (unchanged).

        (D) . . . (unchanged).

        (E) . . . (unchanged).

        (F) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

            3. . . . (unchanged).

            4. . . . (unchanged).

                A. . . . (unchanged).

                B. . . . (unchanged).

                C. . . . (unchanged).

    (G) Sales tax reimbursement collected in accordance with Regulation 1700 which is included in total sales is an allowable deduction. An example of the computation of the purchase-ratio method which provides for an adjustment for sales tax included follows:

1. Taxable grocery purchases.. $40,000

2. Add sales tax adjustment (~~6~~8.25%* x Item 1)............................. ~~2,400~~3,300
3. Adjusted taxable grocery purchases (Item 1 + Item 2)................. ~~42,400~~43,300
4. Exempt food products purchases.. 130,000
5. Total grocery purchases including sales tax (Item 3 + Item 4)... ~~172,400~~173,300
6. Exempt food products ratio (Item 4 divided by Item 5)............... ~~75.41~~75.01%
7. Total sales including sales tax... 254,088
8. Nongrocery taxable sales including sales tax
   (if such sales are not accurately segregated,
   mark up nongrocery taxable cost of goods sold to
   compute sales-add ~~6~~8.25%* sales tax to total)**............................ 31,500
9. Grocery sales including sales tax (Item 7 - Item 8)...................... 222,588
10. Exempt food products sales (Item 6 x Item 9)............................. ~~167,854~~166,963
11. Sales of taxable items including sales tax (Item 7 - Item 10)...... ~~86,234~~87,125
12. Less taxable items purchased with food stamps
   (2% of total food stamps redeemed for period,
   e.g., 2% x $100,000).. 2,000
13. Taxable Measure including sales tax (Item 11 - Item 12)............ ~~84,234~~85,125
14. Sales tax included (~~6/106~~8.25/108.25* x Item 13)..................... ~~4,768~~6,488
15. Measure of tax (Item 13 - Item 14).. ~~79,466~~78,637
16. Sales tax payable (~~6~~8.25%* x Item 15)....................................... ~~4,768~~6,488

    (2) Modified Purchase-Ratio Method. . . . (unchanged).

    (3) Retail Inventory Method and Markup Method. . . . (unchanged).

        (A) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

            3. . . . (unchanged).

            4. . . . (unchanged).

            5. . . . (unchanged).

            6. . . . (unchanged).

        (B) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

                A. . . . (unchanged).

B. . . . (unchanged).

    a. . . . (unchanged).

    b. . . . (unchanged).

    c. . . . (unchanged).

    d. . . . (unchanged).

C. . . . (unchanged).

D. . . . (unchanged).

E. . . . (unchanged).

F. . . . (unchanged).

(4) Electronic Scanning Systems. . . . (unchanged).

(c) Food Stamps. . . . (unchanged).

(d) Shrinkage. . . . (unchanged).

(1) . . . (unchanged).

(2) . . . (unchanged).

(e) List of Methods Not Exhaustive. . . . (unchanged).

(f) Audits. . . . (unchanged).

----

* Use applicable tax rate -tax rate of ~~6~~8.25% used for illustration purposes.

** . . . (unchanged).

[1] . . . (unchanged).

Note: Authority cited: Sections 7051 and 7051.5, Revenue and Taxation Code.
Reference: Sections 6359 and 6373, Revenue and Taxation Code.

Text of Proposed Changes to

Regulation 1700. Reimbursement for Sales Tax.

(a) Reimbursement for Sales Tax.

    (1) Addition of Sales Tax Reimbursement. . . . (unchanged).

    (2) Presumptions. . . . (unchanged).

        (A) . . . (unchanged).

        (B) . . . (unchanged).

        (C) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

    (3) Reimbursement Schedules. . . . (unchanged).

(b) Excess Tax Reimbursement.

    (1) Definition. . . . (unchanged).

    (2) Procedure upon Ascertainment of Excess Tax Reimbursement. . . . (unchanged).

    (3) Evidence Sufficient to Establish that Excess Amounts have been or will be Returned to Customer. . . . (unchanged).

        (A) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

        (B) . . . (unchanged).

            1. . . . (unchanged).

            2. . . . (unchanged).

    (4) Offsets. . . . (unchanged).

    (5) Particular Applications. (Examples at ~~6~~8.25 percent tax rate.)

        (A) Discounts and trading stamps.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $~~6~~8.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $~~6~~8.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $~~4.80~~6.60, i.e., ~~6~~8.25 percent of $80, and has retained excessive tax reimbursement of $~~1.20~~1.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $~~6~~8.25 on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $~~5.88~~8.08 (~~6~~8.25 percent of $98).

The retailer must follow one of the three following procedures:

    a. . . . (unchanged).

    b. . . . (unchanged).

    c. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(6) Rights of Customers. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6901.5, Revenue and Taxation Code; and Section 1656.1, Civil Code. Leases, see also regulation 1660; Meals, tips and other charges as tax-included amounts, see regulation 1603; "Free meals," charging reimbursement on, see regulation 1670; Trading stamps generally, see regulation 1671; Trade-ins generally, see regulation 1654.

2

CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 1602.5, *Reporting Methods for Grocers*
Regulation 1700, *Reimbursement for Sales Tax*

A. Factual Basis

Subdivision (b)(1)(G) of California Code of Regulations, title 18, section (Regulation) 1602.5, *Reporting Methods for Grocers*, includes an example showing how grocers can calculate the applicable sales and use tax using the purchase-ratio method. Subdivision (b)(5)(A) of Regulation 1700, *Reimbursement for Sales Tax*, contains two examples showing how retailers can mistakenly calculate and collect excess tax reimbursement in transactions involving discounts and trading stamps. However, the example in Regulation 1602.5 and the examples in Regulation 1700 use an out-dated 6 percent tax rate,[1] which does not currently apply anywhere in California. Therefore, the State Board of Equalization (Board) proposes to update all three examples so that they utilize an 8.25 percent tax rate[2] because California sales and use tax rates currently range from 8.25 percent to 10.75 percent, and 8.25 percent will continue to be the operative rate in some areas of California after the temporary 1 percent tax rate increase authorized by Revenue and Taxation Code sections 6051.7 and 6201.7 expires.[3]

The Board has determined that the changes to Regulation 1602.5 and 1700 are appropriate for processing under Rule 100 because they merely change the tax rates used in examples, not the actual tax rates that apply to specific transactions, and therefore do not have any regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes to Regulation 1602.5

Proposed changes to Regulation 1602.5:

Regulation 1602.5. Reporting Methods for Grocers.

(a) Food Products Exemption-In General. . . . (unchanged).

(b) Reporting Methods. . . . (unchanged).

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[1] The tax rate refers to the cumulative rates at which the state sales and use tax (Rev. & Tax Code, § 6001 et seq.), the Bradley-Burns Uniform Local Sales and Use Tax (Rev. & Tax. Code, § 7200 et seq.), and local Transactions and Use Tax are computed in a given jurisdiction, such as a city or county.

[2] For ease of reference, there is a chart available at http://www.boe.ca.gov/news/sp111500att.htm, which shows each component of the 8.25 percent rate.

[3] For ease of reference, the specific sales and use tax rates applicable in the various California cities and counties are available on the Board's Website at http://www.boe.ca.gov/sutax/pam71.htm.

(1) Purchase-Ratio Method. . . . (unchanged).

    (A) . . . (unchanged).

    (B) . . . (unchanged).

    (C) . . . (unchanged).

    (D) . . . (unchanged).

    (E) . . . (unchanged).

    (F) . . . (unchanged).

        1. . . . (unchanged).

        2. . . . (unchanged).

        3. . . . (unchanged).

        4. . . . (unchanged).

            A. . . . (unchanged).

            B. . . . (unchanged).

            C. . . . (unchanged).

(G) Sales tax reimbursement collected in accordance with Regulation 1700 which is included in total sales is an allowable deduction. An example of the computation of the purchase-ratio method which provides for an adjustment for sales tax included follows:

1. Taxable grocery purchases..	$40,000
2. Add sales tax adjustment (~~6~~8.25%* x Item 1).............................	~~2,400~~3,300
3. Adjusted taxable grocery purchases (Item 1 + Item 2)...................	~~42,400~~43,300
4. Exempt food products purchases......................................	130,000
5. Total grocery purchases including sales tax (Item 3 + Item 4).......	~~172,400~~173,300
6. Exempt food products ratio (Item 4 divided by Item 5).................	~~75.41~~75.01%
7. Total sales including sales tax......................................	254,088
8. Nongrocery taxable sales including sales tax (if such sales are not accurately segregated, mark up nongrocery taxable cost of goods sold to compute sales-add ~~6~~8.25%* sales tax to total)**.............................	31,500
9. Grocery sales including sales tax (Item 7 - Item 8).........................	222,588
10. Exempt food products sales (Item 6 x Item 9).............................	~~167,854~~166,963
11. Sales of taxable items including sales tax (Item 7 - Item 10).........	~~86,234~~87,125

12. Less taxable items purchased with food stamps
(2% of total food stamps redeemed for period,
e.g., 2% x $100,000)... 2,000
13. Taxable Measure including sales tax (Item 11 - Item 12).............. 84,234~~85,125~~
14. Sales tax included (6/106~~8.25/108.25~~* x Item 13)......................... 4,768~~6,488~~
15. Measure of tax (Item 13 - Item 14)... 79,466~~78,637~~
16. Sales tax payable (6~~8.25~~%* x Item 15).. 4,768~~6,488~~

(2) Modified Purchase-Ratio Method. . . . (unchanged).

(3) Retail Inventory Method and Markup Method. . . . (unchanged).

    (A) . . . (unchanged).

        1. . . . (unchanged).

        2. . . . (unchanged).

        3. . . . (unchanged).

        4. . . . (unchanged).

        5. . . . (unchanged).

        6. . . . (unchanged).

    (B) . . . (unchanged).

        1. . . . (unchanged).

        2. . . . (unchanged).

            A. . . . (unchanged).

            B. . . . (unchanged).

                a. . . . (unchanged).

                b. . . . (unchanged).

                c. . . . (unchanged).

                d. . . . (unchanged).

            C. . . . (unchanged).

            D. . . . (unchanged).

E. . . . (unchanged).

F. . . . (unchanged).

(4) Electronic Scanning Systems. . . . (unchanged).

(c) Food Stamps. . . . (unchanged).

(d) Shrinkage. . . . (unchanged).

(1) . . . (unchanged).

(2) . . . (unchanged).

(e) List of Methods Not Exhaustive. . . . (unchanged).

(f) Audits. . . . (unchanged).

----

* Use applicable tax rate -tax rate of ~~6~~8.25% used for illustration purposes.

** . . . (unchanged).

[1] . . . (unchanged).

Note: Authority cited: Sections 7051 and 7051.5, Revenue and Taxation Code. Reference: Sections 6359 and 6373, Revenue and Taxation Code.

C. Proposed Changes to Regulation 1700

Proposed changes to Regulation 1700

Regulation 1700. Reimbursement for Sales Tax.

(a) Reimbursement for Sales Tax.

(1) Addition of Sales Tax Reimbursement. . . . (unchanged).

(2) Presumptions. . . . (unchanged).

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(3) Reimbursement Schedules. . . . (unchanged).

(b) Excess Tax Reimbursement.

(1) Definition. . . . (unchanged).

(2) Procedure upon Ascertainment of Excess Tax Reimbursement. . . . (unchanged).

(3) Evidence Sufficient to Establish that Excess Amounts have been or will be Returned to Customer. . . . (unchanged).

(A) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(B) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(4) Offsets. . . . (unchanged).

(5) Particular Applications. (Examples at ~~6~~8.25 percent tax rate.)

(A) Discounts and trading stamps.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $~~6~~8.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $~~6~~8.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $~~4.80~~6.60, i.e., ~~6~~8.25 percent of $80, and has retained excessive tax reimbursement of $~~1.20~~1.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the

goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $~~6~~8.25 on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $~~5.88~~8.08 (~~6~~8.25 percent of $98).

The retailer must follow one of the three following procedures:

      a. . . . (unchanged).

      b. . . . (unchanged).

      c. . . . (unchanged).

  (B) . . . (unchanged).

  (C) . . . (unchanged).

  (D) . . . (unchanged).

  (6) Rights of Customers. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6901.5, Revenue and Taxation Code; and Section 1656.1, Civil Code. Leases, see also regulation 1660; Meals, tips and other charges as tax-included amounts, see regulation 1603; "Free meals," charging reimbursement on, see regulation 1670; Trading stamps generally, see regulation 1671; Trade-ins generally, see regulation 1654.

Memorandum

To : Mr. Ramon J. Hirsig   **Date:** March 4, 2010
Executive Director, MIC:73

From : Kristine Cazadd, Chief Counsel
Legal Department, MIC:83

Subject : Board Meeting—March 25, 2010
Item J
Chief Counsel's Rulemaking Calendar
Regulation 1700, *Reimbursement for Sales Tax*

Sales and Use Tax Regulation 1700, *Reimbursement for Sales Tax*, includes examples of how tax is calculated with discounts and trading stamps. The tax rate used in the examples is 6 percent. However, the tax rates in California now range from 8.25 to 10.75 percent and 8.25 percent will remain an active tax rate after the 1 percent temporary tax rate increase authorized by Revenue and Taxation Code sections 6051.7 and 6201.7 expires. As such, staff believes that the Board should update the examples using an 8.25 percent tax rate. Therefore, we request your approval to place proposed revisions to Regulation 1700 subdivision (b)(5) and (b)(5)(A) on the Chief Counsel's Rulemaking Calendar for March 25, 2010, for Board authorization to amend the examples under Rule 100, without the normal notice and public hearing process. These changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.
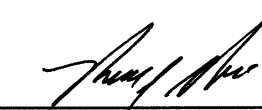
Attached is a strikeout and underline version of Regulation 1700 showing the updated examples.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller at 324-2657.

Recommendation by: Approved:

_____   _____
Kristine Cazadd, Chief Counsel   Ramon J. Hirsig, Executive Director

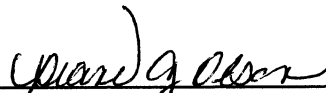Approved: BOARD APPROVED
                                   At the _3/25/.0_ Board Meeting

_____   _____
Randie L. Henry, Deputy Director   Diane Olson, Chief
Sales and Use Tax Department   Board Proceedings Division

Attachments

cc (all with attachments):
    Ms. Randie L. Henry (MIC 43)
    Ms. Diane Olson (MIC 80)
    Mr. Randy Ferris (MIC 82)
    Mr. Bradley Heller (MIC 82)
    Mr. Jeffrey L. McGuire (MIC 92)
    Mr. Geoffrey E. Lyle (MIC 50)
    Ms. Leila Hellmuth (MIC 50)
    Ms. Lynn Whitaker (MIC 50)

Regulation 1700. REIMBURSEMENT FOR SALES TAX.

Reference: Section 6901.5, Revenue and Taxation Code; Section 1656.1, Civil Code.
              Meals, tips and other charges as tax-included amounts, see Regulation 1603.

(a) REIMBURSEMENT FOR SALES TAX.

(1) ADDITION OF SALES TAX REIMBURSEMENT. Whether a retailer may add sales tax reimbursement to the sales price of the tangible personal property sold at retail to a purchaser depends solely upon the terms of the agreement of sale.

(2) PRESUMPTIONS. Certain presumptions concerning the addition of sales tax reimbursement are created by Civil Code Section 1656.1. It shall be presumed that the parties agreed to the addition of sales tax reimbursement to the sales price of tangible personal property sold at retail to a purchaser if:

(A) The agreement of sale expressly provides for such addition of sales tax reimbursement;

(B) Sales tax reimbursement is shown on the sales check or other proof of sale; or

(C) The retailer posts in his or her premises in a location visible to purchasers, or includes on a price tag or in an advertisement or other printed material directed to purchasers, a notice to the effect that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

It shall be presumed that the property, the gross receipts from the sale of which is subject to the sales tax, is sold at a price which includes tax reimbursement if the retailer posts in his or her premises, or includes on a price tag or in an advertisement (whichever is applicable) one of the following notices:

1. "All prices of taxable items include sales tax reimbursement computed to the nearest mill."

2. "The price of this item includes sales tax reimbursement computed to the nearest mill."

(3) REIMBURSEMENT SCHEDULES. Each retailer who adds to the sales price of tangible personal property sold at retail an amount from a consumer in reimbursement of the sales tax upon gross receipts shall compute the amount of reimbursement by reference to schedules prepared by the board pursuant to Civil Code Section 1656.1 or by mathematical computation as described below. Schedules are available from the local district board offices for the various applicable rates. Reimbursement on sales prices in excess of those shown in the schedules provided by the board may be computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

(b) EXCESS TAX REIMBURSEMENT.

(1) DEFINITION. When an amount represented by a person to a customer as constituting reimbursement for sales tax is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the customer to the person, the amount so paid is excess tax reimbursement. Excess tax reimbursement is charged when reimbursement is computed on a transaction which is not subject to tax, when reimbursement is computed on an amount in excess of the amount subject to tax, when reimbursement is computed using a tax rate higher than the rate imposed by law, and when mathematical or clerical errors result in an overstatement of the reimbursement on a billing.

(2) PROCEDURE UPON ASCERTAINMENT OF EXCESS TAX REIMBURSEMENT. Whenever the board ascertains that a person has collected excess tax reimbursement, the person will be afforded an opportunity to refund the excess collections to the customers from whom they were collected. In the event of failure or refusal of the person to make such refunds, the board will make a determination against the person for the amount of the excess tax reimbursement collected and not previously paid to the state, plus applicable interest and penalty.

(3) EVIDENCE SUFFICIENT TO ESTABLISH THAT EXCESS AMOUNTS HAVE BEEN OR WILL BE RETURNED TO CUSTOMER.

(A) If a person already has refunded to each customer amounts collected as reimbursement for tax in excess of the tax due, this may be evidenced by any type of record which can be verified by audit such as:

1. Receipts or cancelled checks.

2. Books of account showing that credit has been allowed the customer as an offset against an existing indebtedness owed by the customer to the person.

(B) If a person has not already made sales tax reimbursement refunds to each customer but desires to do so rather than incur an obligation to the state, the person must:

1. Inform in writing each customer from whom an excess amount was collected that the excess amount collected will be refunded to the customer or that, at the customer's option, the customer will be credited with such amount, and

2. The person must obtain and retain for verification by the board an acknowledgment from the customer that the customer has received notice of the amount of indebtedness of the person to the customer.

(4) OFFSETS. If a person who has collected excess tax reimbursement on a transaction fails or refuses to refund it to the customer from whom it was collected, the excess tax reimbursement shall be offset against any tax liability of the taxpayer on the same transaction. Any excess tax reimbursement remaining after the offset must be refunded to the customer or paid to the state. The offset can be made when returns are filed, when a determination is issued, or when a refund is claimed. Such offsets can be made only on a transaction by transaction basis. Tax reimbursement collected on a specific transaction can be used only to satisfy a tax liability arising from the same transaction. The "same transaction" means all activities involved in the acquisition and disposition of the same property. The "same transaction" may involve several persons, such as a vendor, a subcontractor, a prime contractor, and the final customer; or a vendor, a lessor, and a series of sublessors. Tax reimbursement can be offset against the tax liability of the taxpayer whether the liability was satisfied by paying sales tax reimbursement to a vendor, paying use tax to a vendor, or paying use tax to the state.

An offset of a taxpayer's own tax liability against tax reimbursement collected from a customer can be made only with respect to transactions in which possession of the property upon which the taxpayer's tax liability is based is transferred, either permanently or temporarily, to the customer, as in the case of construction contracts or leases. A taxpayer such as a repairman or printer who uses shop supplies or printing aids in performing a job for a customer cannot offset the tax liability arising from the use of the supplies or aids against tax reimbursement collected from the customer.

A person who claims that a tax liability on a transaction should be offset against tax reimbursement paid to the state by another person has the burden of proving that tax reimbursement was in fact paid to the state on the same transaction by the other person. In the absence of such proof no offset will be allowed. The offset allowances explained above are procedural changes mandated by statute and apply to all proceedings pending before the board on and after September 7, 1982.

(5) PARTICULAR APPLICATIONS. (Examples at 6 8.25 percent tax rate.)　　　　　　　　　|

(A) DISCOUNTS AND TRADING STAMPS.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $6 8.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $68.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $4.80 6.60, i.e., 68.25 percent of $80, and has retained excessive tax reimbursement of $1.20 1.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $6 8.25 on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $5.88 8.08 (6 8.25 percent of $98).

The retailer must follow one of the three following procedures:

a. Adjust the price upon which tax reimbursement is computed so it will correspond to the price upon which the retailer computes the tax paid by the retailer to the state.

b. Consider the price which determines the number of stamps to be given a customer as the total amount paid by the customer, inclusive of that portion charged as reimbursement for sales tax.

c. Take no deduction from gross receipts in computing tax to be paid to the state on account of the cost of stamps given to customers.

(B) CONSTRUCTION CONTRACTORS. (See Regulation 1521 (18 CCR 1521) for application of tax to construction contractors generally.) A contractor furnishes and installs materials under a lump sum construction contract for the improvement of real property and collects tax reimbursement on the total contract price. As the contractor is the consumer of materials furnished and installed in the performance of the lumpsum contract, the tax reimbursement collected on the total contract price constitutes excess tax reimbursement. Such excess tax reimbursement must be returned to the customer or paid to the state. However, offsets will be allowed as explained in (b) (4).

Under a lump-sum contract to improve real property, a subcontractor furnishes and installs materials which were required without the payment of sales or use tax. The prime contractor collects tax reimbursement from the prime contractor's customer on the total contract price and pays all of the tax reimbursement collected to the state. The subcontractor's use tax liability on the materials consumed in performing the contract will be offset against the tax reimbursement paid to the state by the prime contractor, and the subcontractor has no further tax liability on the transaction. The tax reimbursement paid to the state by the prime contractor in excess of the use tax liability of the subcontractor will be refunded to the prime contractor only if it is returned to the customer.

(C) LESSORS OF MOBILE TRANSPORTATION EQUIPMENT. A lessor of mobile transportation equipment purchases such equipment under a resale certificate and collects tax reimbursement on the rental receipts, but pays no tax to the state. The lessor must pay tax on the purchase price of the equipment since a timely election to measure the tax by fair rental value was not made. The tax reimbursement collected on rental receipts is excess tax reimbursement. Such excess tax reimbursement must be returned to the lessee or paid to the state. However, offsets will be allowed as explained in (b) (4). (See Regulation 1661 (18 CCR1661) for application of tax to leases of mobile transportation equipment.)

(D) OTHER LESSORS OF TANGIBLE PERSONAL PROPERTY. A lessor purchases property and pays sales tax reimbursement to the vendor. The property is leased in the same form as acquired and tax reimbursement is collected on the rental receipts. Tax reimbursement collected on rental receipts must be returned to the lessee or paid to the state to the extent that it exceeds the tax liability measured by the purchase price. (See Regulation 1660 (18 CCR 1660) for application of tax to leases, generally.)

(6) RIGHTS OF CUSTOMERS. The provisions of this regulation with respect to offsets do not necessarily limit the rights of customers to pursue refunds from persons who collected tax reimbursement from them in excess of the amount due.

Thursday, March 25, 2010

Sales and Use Tax Regulation 1700, *Reimbursement for Sales Tax*

Bradley Heller, Tax Counsel, Tax and Fee Program Division, Legal Department, made introductory remarks regarding staff's request for authorization to complete Rule 100 changes to update the tax rates used in the examples included in the regulation. (Exhibit 3.9.)

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board authorized the amendment of examples in the regulation as recommended by staff.

OTHER CHIEF COUNSEL MATTERS

Request for Resolution Concerning Coverage for BOE Volunteers

Sharon Brady Silva, Tax Counsel, Lisa Fien, Chief, Human Resources Division, presented staff's request for Board adoption of a resolution regarding workers' compensation coverage for volunteers performing services to the agency in order to ensure compliance with the requirements of Labor Code section 3363.5. (Exhibit 3.10.)

Action: Upon motion of Mr. Horton, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board adopted the resolution as recommended by staff.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California. (Exhibit 3.11.)

> Sandra Kay Ellerson, Tax Technician III, Out-of-State Sacramento Office, Sales and Use Tax Department
>
> Harold J. Scott, Business Tax Compliance Supervisor, Return Analysis Unit, Sales and Use Tax Department
>
> Elena A. Shroyer, Tax Technician III, Out-of-State Sacramento Office, Sales and Use Tax Department
>
> Luis Torres, Business Taxes Specialist I, Can Nuys Office
>
> Edward Toussaint, Business Taxes Representative, Culver City Office
>
> Estelita B. Velasquez, Tax Technician III, San Diego Office
>
> Brenda Ward, Associate Personnel Analyst, Human Resources Division

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG __1700__

REASON FOR CHANGE (check those applicable)

☐ renumbering, reordering, or relocating regulatory provision

☐ deleting regulatory provision for which all statutory or constitutional authority has been repealed

☐ deleting regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a US District Court located in the State of California, the US Court of Appeals for the Ninth Circuit, or the US Supreme Court

☐ revising structure, syntax, cross-reference, grammar, or punctuation

☐ changing an "authority" or "reference" citation

☐ making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

☑ changing without regulatory effect, not otherwise described above

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by _~Lynn Whitaker_____ Date __1-12-10_____

Approvals
Division Chief _____ Date __2/22/10_____

Deputy Director _____ Date __2-23-10_____

Assistant Chief Counsel _____ Date __2/24/10_____

Chief Counsel _Kristine Cazadd_____ Date __2/24/10_____

Chief, Board Proceedings _Diane G. Olson_ Date __3/2/10_____

┌──┐
│ INSTRUCTIONS: │
│   After approval, forward to next on list. In the event of disapproval, return to preparer. │
└──┘

Board Proceedings Division

Section 100. Publication of "Changes Without Regulatory Effect."

(a) Subject to the approval of OAL as provided in subsections (c) and (d), an agency may add to, revise or delete text published in the California Code of Regulations without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. The addition, revision or deletion is a "change without regulatory effect." Changes without regulatory effect include, but are not limited to:"

(1) renumbering, reordering, or relocating a regulatory provision;

(2) deleting a regulatory provision for which all statutory or constitutional authority has been repealed;

(3) deleting a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a United States District Court located in the State of California, the United States Court of Appeals for the Ninth Circuit, or the United States Supreme Court; however, OAL shall not approve any proposed change without regulatory effect if the change is based on a superior court decision which invalidated the regulatory provision solely on the grounds that the underlying statute was unconstitutional;

(4) revising structure, syntax, cross-reference, grammar, or punctuation;

(5) changing an "authority" or "reference" citation for a regulation; and,

(6) making a regulatory provision consistent with a changed California statute if both the following conditions are met:

(A) the regulatory provision is inconsistent with an superseded by the changed statute, and

(B) the adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

(b) In submitting a change without regulatory effect to OAL for review the agency shall:

(1) submit seven copies of the regulation with an addition shown in underline or italics and a deletion shown in strike-out; and

(2) attach to each copy a completed Form 400, with at least one Form 400 bearing an original signature; and

(3) submit a written statement explaining why the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

(c) OAL shall determine whether a change submitted is a change without regulatory effect within 30 working days of its receipt. OAL shall send written notification of the determination to the agency which submitted the changes.

(d) If OAL determines that the submitted change is a change without regulatory effect, OAL shall file it with the Secretary of State and have it published in the California Code of Regulations.

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

MARCH 25, 2010

ITEM J

SECTION 100 CHANGES

J1   SALES AND   USE TAX REGULATION 1525.7

J2   SALES AND USE TAX REGULATION 1584

J3   SALES AND USE TAX REGULATION 1602.5

J4   SALES AND USE TAX REGULATION 1700

Reported by: Juli Price Jackson

No. CSR 5214

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2   P R E S E N T

3

4   For the Board   Betty T. Yee
         of Equalization: Chair
5
                                          Jerome E. Horton
6   Vice-Chair

7   Barbara Alby
                                          Acting Member
8
                                          Michelle Steel
9   Member

10   Marcy Jo Mandel
                                          Appearing for John
11   Chiang, State Controller
                                          (per Government Code
12   Section 7.9)

13   Diane G. Olson
                                          Chief, Board
14   Proceedings Division

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1   450 N STREET

2   SACRAMENTO, CALIFORNIA

3   MARCH 25, 2010

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5   MS. YEE: Okay, our next matter?

6   MS. OLSON: Our next matter is J1, Sales and

7 Use Tax Regulation 1525.7, Rural Investment Tax

8 Exemption.

9   MS. STEEL: Go through all the Js together?

10   MS. YEE: Yeah, I think so.

11   Good morning, Mr. Heller.

12   MR. HELLER: Good morning, Madam -- excuse me,

13 Madam Chair, Members of the Board.

14   My name's Bradley Heller. I'm here with the

15 Legal Department.

16   MS. YEE: Okay.

17   MR. HELLER: And before I begin, I just wanted

18 to note that Ms. Steel had asked staff to review the

19 Board's sales and use tax regulations to insure that

20 they're current and recommend any necessary updates.

21   And today's proposed Rule 100 changes, as well

22 as the Rule 100 changes from January, are the result of

23 that review and staff's recommendations.

24   MS. YEE: Excellent, great.

25   MR. HELLER: But, first of all, for item J1

26 this morning, I'm here to request the Board's

27 authorization to repeal Regulation 1525.7, the Rural

28 Investment Tax Exemption, under Rule 100, because the

1 statutory authority for the regulation, Revenue and

2 Taxation Code Section 6378.1 was repealed by its own

3 terms effective January 1, 2006.

4   MS. YEE: Okay. Let me -- without objection,

5 Members -- have you summarize each of these.

6   I think we'll take them all up on one vote.

7   MR. HELLER: Perfect.

8   MS. YEE: Thank you.

9   MR. HELLER: And then for item J2, we're here

10 to request the Board's authorization to delete

11 subdivision (c) from Regulation 1584, Membership Fees,

12 under Rule 100 because the January 1, 1996 operative

13 date is no longer necessary.

14   For item J3, I am here to request the Board's

15 authorization to update the example in Regulation

16 1602.5, Reporting Methods for Grocers, illustrating the

17 application of the purchase -- excuse me, purchase ratio

18 method to use a current tax rate, also under Rule 100.

19   Then similarly for item J4, I am here to

20 request the Board's authorization to update the examples

21 in Regulation 1700, Reimbursement for Sales Tax,

22 illustrating the application of tax to discounts and

23 trading stamps to use a current tax rate, also under

24 Rule 100.

25   MS. YEE: Okay. Thank you very much,

26 Mr. Heller.

27   Comments, Members?

28   Hearing none, is there a motion?

1   MS. STEEL: So moved.

2   MS. YEE: Motion by Ms. Steel --

3   MR. HORTON: Second.

4   MS. YEE: -- second by Mr. Horton.

5   Without objection, the motion carries to

6 request authorization for each of the items under J1

7 through J4, thank you.

8   MR. HELLER: Thank you.

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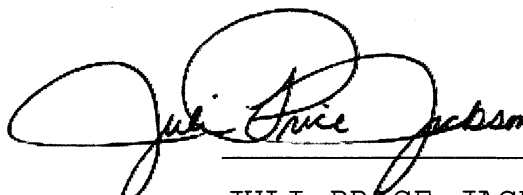
<div align="center">REPORTER'S CERTIFICATE</div>

State of California   )

) ss

County of Sacramento   )

        I, JULI PRICE JACKSON, Hearing Reporter for the
California State Board of Equalization certify that on
MARCH 25, 2010 I recorded verbatim, in shorthand, to the
best of my ability, the proceedings in the
above-entitled hearing; that I transcribed the shorthand
writing into typewriting; and that the preceding pages 1
through 5 constitute a complete and accurate
transcription of the shorthand writing.

Dated: MAY 2, 2010

_____
JULI PRICE JACKSON
Hearing Reporter